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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,520	04/09/2001	Vladimir R. Pisarsky	US018049	6717

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EXAMINER

PHAM, THOMAS K

ART UNIT

PAPER NUMBER

2121

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/829,520

Applicant(s)

PISARSKY, VLADIMIR R.

Examiner

Thomas K. Pham

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

**Response to Amendment**

1. Applicant's petition for revival of the application has been received and approved, as the result, this office action is in response to request for reconsideration filed on 09/23/2005.
2. The rejection of claim 1 under 35 USC 112, second paragraph has been withdrawn.
3. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

**Quotations of U.S. Code Title 35**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### **Information Disclosure Statement**

6. Examiner is considering the information disclosure statements (IDS) submitted on 9/23/2005.

### **Claim Rejections - 35 USC § 101**

7. The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim 1 is rejected under 35 U.S.C. 101 as not being tangible since the steps of the method do not require use of hardware or computer system to accomplish the steps. For example, an “object” does not limit the claim to just a hardware object, but it can also be any software object in a distributed data network.

### **Claim Rejections - 35 USC § 102**

8. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,363,429 (“Ketcham”).

#### **Regarding claim 1**

Ketcham teaches an object with a predictor to predict (“test”) at least a part of a pre-determined itinerary (“known data traffic signature”) of at least one data packet in a distributed data network (see col. 11 lines 53-65). *Examiner interprets that the system of Ketcham is testing (predicting) a calculated data traffic signature against a known data traffic signature in order to identify the calculated data traffic signature as qualify to be processed under a desire processing priority.*

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**Regarding claim 2**

Ketcham teaches the object comprise logic circuitry (see col. 4 lines 32-41, "... network devices ... one or more high speed Central Processing Unit(s) ...").

**Regarding claim 3**

Ketcham teaches a method of determining authenticity of an object, the method comprising receiving from the object a prediction ("test") of at least a part of a pre-determined itinerary ("known data traffic signature") of at least one data packet in a distributed data network (see col. 11 lines 53-58); and verifying the prediction (see col. 11 lines 58-65, "If the calculated ... matches ... If the calculated ... does not match ..."). *Examiner interprets that the system of Ketcham is testing (predicting) a calculated data traffic signature against a known data traffic signature in order to identify the calculated data traffic signature as qualify to be processed under a desire processing priority.*

**Regarding claim 4**

Ketcham teaches the data packet comprises an instruction as to its next destination in the network (see col. 3 line 66 to col. 4 line 3, "... the data packets ... an addressing protocol designed to route traffic within a network or between networks").

*Response to Arguments*

In the remark the applicant argues that cited reference failed to teach:

I) “an object with a predictor to predict at least a part of a pre-determined itinerary of at least one data packet in a distributed data network” or “receiving from the object a prediction of at least a part of a pre-determined itinerary of at least one data packet in a distributed data network” as to claim 1 and 3, respectively

In response to applicant’s arguments,

I) The term “object” as defined (by examples only) in the application includes “any object including software” as described on page 2 lines 16-17. Prior art Ketcham (USPN 6,363,429) teaches a system that includes multiple network devices (objects) connected by multiple data streams as described in column 3 lines 51-65. Ketcham teaches the network devices calculate a data traffic signature (data packets) represent a data stream between a source network device and a destination network device (see col. 11 lines 53-55). Next, a calculated data traffic signature is identified (authenticated) for processing at a desired priority by providing a test (prediction) that compares the calculated data traffic signature with a known (predetermined) data traffic signature (see col. 11 lines 55-58). If a match is found (prediction is correct), the calculated data traffic signature will be authorized to have more resources as needed to reach its desired processing priority, otherwise, no resource is given (see col. 11 lines 58-65). Thus, Ketcham EVERY elements cited in claim 1 and claim 3.

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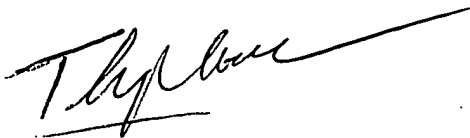
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday - Thursday from 6:30 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.

Any response to this office action should be mailed to: **Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450**. Responses may also be faxed to the **official fax number (571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Thomas Pham**  
*Patent Examiner*



November 2, 2005



**Anthony Knight**  
**Supervisory Patent Examiner**  
**Group 3600**